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ABSTRACT

With adequate preparation, effort, and commitment, the school system's collective bargaining process can become an opportunity for management and employee organizations to resolve significant concerns. This paper recommends nine steps for a pragmatic approach to negotiations. (1) Prepare: Preparation includes reviewing the current collective bargaining agreement and reviewing grievances that have been filed. (2) Select team: A negotiating team should consist of a professional negotiator, the superintendent, and a school board member. (3) Anticipate: A review of background material involves looking at demands within a union and the source of union proposals. (4) Formulate proposals: Management's proposals should be formulated well in advance. Specific bargaining objectives should be identified and language proposals developed. (5) Set rules: More frequent and shorter sessions are the most productive. Other rule areas include minutes of sessions and news releases. (6) At the table: The team should not display internal disagreements in the presence of union representatives. (7) Agree: Stalemates must be avoided to reach agreement. (8) Communicate: A system for keeping the board informed in a timely manner is important. (9) Sign contract: A new agreement signifies that supervisors are briefed by a negotiating team and are advised on work rules in administering the agreement. (CJH)

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Negotiations: Try a pragmatic approach

by Kathryn J. Prenn and John T. Coughlin

Too often the collective bargaining process becomes an emotional and anxiety-filled exercise. Logistics, strategy, and risk are inherent components of the process, and the stakes are high. Neither side can afford to lose; everyone wants to win.

But collective bargaining doesn't have to be a battleground. With adequate preparation, effort, and commitment, the process can become an opportunity for management and employee organizations to address and resolve their concerns about wages, hours, and conditions of employment. The key is to recognize that collective bargaining is a "process" with a beginning and end that extend beyond the bargaining table.

Step one: prepare

Once you accept that negotiations is an ongoing process, it becomes clear that preparation for the next round of negotiations should begin as soon as the last contract is settled. Ignoring the importance of early preparation can lead to errors being made in the "heat" of negotiations at the bargaining table—errors that might have been avoided through better preparation. At a minimum, adequate preparation includes:

- meeting with the supervisory team;
- reviewing the current collective bargaining agreement;
- reviewing grievances that have been filed;
- identifying existing practices that need changing;
- studying and analyzing contract language in neighboring and comparable school system contracts;
- developing comparative data.

Meetings among "front line" personnel—superintendent, principals, area coordinators, business manager—should be used to identify contract problems. The ability of the school system's administrators to manage efficiently and effectively must be protected vigorously during the collective bargaining process. These staff members are in the best position to know which contract provisions are creating or may create operational and managerial problems. For example, overly restrictive lay-off or transfer language may interfere with making necessary changes, such as closing or opening a school.

When reviewing the current contract, consider: Is the language clear, or is it unworkable or incomplete? Does the language clearly reflect the parties' intentions? Does the agreement clearly spell out the rights, responsibilities, obligations, and duties of the parties?

A review of the current agreement may reveal that circumstances or operations have changed, thereby creating a need for changes in the agreement's language. For example, specific services or programs may have been added or dropped since the last agreement was bargained.

There also may have been changes in the law that impact on the adequacy and relevancy of existing agreement language, and thus require modifications to the agreement. Two areas of frequent change are state laws regarding insurance and retirement provisions.

The current agreement also must be reviewed to identify permissive subjects for bargaining—subjects that management may bargain, but is not required to bargain. Only three subjects really are being negotiated: money; power; and job security. Permissive items most often impact on power. The result can be restrictions on management's authority to manage the system effectively in the best interests of the district.

When reviewing grievances (you should keep a complete grievance file), look for:

- What types of grievances are frequently filed? (Discharge? Pay? Hours?)
- Which clauses in the agreement are cited in the grievances?
- How far did the union push the grievances?
- How were the grievances resolved? Why?

Answers to these questions should tell you where language changes are needed and where there are problems that need solving. If there are grievances that the union lost, you can expect that the union will try to obtain language changes in those areas through collective bargaining.

Absent specific contract language to the contrary, existing past practices may rise to the level of contractual provisions or obligations. Such practices must be identified and, where necessary, corrected by contract language.

Compiling data on salary, fringe benefits, and significant language provisions to compare your school system with comparable and neighboring systems will show you when you can hold firm and when compromise may be necessary. Salary comparisons should include benchmark positions such as B.A. and M.A. bases and maximums, and schedule maximums. You'll also need to compare insurance costs as well as benefit levels under various types of insur-

continued on page 2

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EA 615 249

continued from page 1

ance plans. Also, "fringe benefits" can include many items: holidays, personal leave days, sick leave, and pay for time not worked. These all have price tags, and their cost should be known before negotiators meet.

Step two: select team

Effective collective bargaining calls for a variety of skills and knowledge. Seldom does one individual possess them all. A negotiating team is called for. At a minimum, the team should consist of a professional negotiator, the superintendent, and at least one school board member.

The professional negotiator will bring expertise in the law and negotiations, including knowledge of precedential cases and settlements. That person also has the advantage of being an outsider who will take the "heat" at the table rather than allowing it to carry over into the workplace the next day.

The superintendent is an invaluable adviser and consultant for the team, the one who should be most keenly aware of the school system's day-to-day operations and real problems. Including the superintendent on the team precludes the union from "buffaloing" the school system's team with nonexistent problems.

The board member participates on the team as a duly elected representative of the school system's governing board. Ultimate authority to ratify the agreement rests with the board.

The negotiating team must have a range of authority. Given too little authority, the team will be ineffective at the bargaining table. Further, if the union perceives that the team and board aren't presenting a united and unanimous front, it can effectively by-pass the team and go directly to the board and the team will lose its effectiveness and credibility.

The negotiating team can have only one spokesperson: the chief negotiator. That person must have the team's support and be given overall authority and responsibility for negotiating the agreement within guidelines set by the board.

Step three: anticipate

A review of as much background material as possible will help you to anticipate the union's bargaining proposals. Include in your review what the union demands are statewide and in neighboring and comparable districts. For example, is there a pattern of union demands for specific fringe benefits such as an additional pickup on retirement or vision insurance?

Also, review demands within a particular union. Some local teacher bargaining units are affiliated with the American Federation of Teachers while others are affiliated with the National Education Association. Find out if these unions have different bargaining priorities and what they are.

At the local level, find out which issues union leaders are attempting to "whip up" among teachers. What are the priorities? Are they "throw-aways," "nice-to-haves," or "must-gets?"

The source of each union proposal should be identified because the source affects the priority given the proposal by local union membership. Does the proposal originate from the local rank and file members, or does it stem from initiatives of the union's state or national leadership? Maybe the proposal or complaint comes from an individual or a small group of teachers rather than the local organization as a whole?

Finally, find out who is on the union's negotiating team. Is the team dominated by elementary, junior high, or senior high teachers? A scattergram should be done to determine where the team's teachers fall on the salary schedule. Negotiating team members are individuals who are subject to having their objectivity colored by their own backgrounds, experiences, and employment circumstances.

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Step four: formulate proposals

Formulate management's bargaining proposals well in advance of the date set to begin bargaining. Substantial time and effort are needed to gather the information necessary for complete and well-drafted language proposals.

You should identify four to five items—your bargaining objectives—that you really need and want to gain from the round of bargaining. You may include both realistic objectives (those you can expect to attain through negotiations) and optimistic objectives (those not as easily attained, but still possible through bargaining). You'll probably wind up with a mixture. Keep in mind that your objectives should address enhancing management's flexibility, effectiveness, and efficiency, but also should clarify language ambiguities or contain costs.

When objectives are identified, set priorities and develop proposal language for items you really want. In addition, develop economic and noneconomic proposals that you will be willing to trade with the union so that you can avoid saying "no" continually. For each item that you really want, you'll need to provide a rationale and substantiate the need for the item. Substantiation can be found in the item's ability to contain costs, its potential for resolving or preventing grievances, and its ability to solve an existing or potential problem practically.

You'll also want to develop language proposals that will present a risk for the union. Proposals relating to staffing or productivity can fall into this category. Beware, however, that unsubstantiated proposals will be ignored by the union and will lessen your credibility at the bargaining table.

Finally, before you go to the bargaining table you'll have to know how much money is available and the board's directives for spending it on wages versus fringe benefits. While your initial proposal might contain little or no monetary increase, you must know your final authority.

Step five: set rules

Mutually agreed upon ground rules for conducting bargaining sessions aren't necessary. But if you do establish ground rules, be sure to put them in writing.

The length and frequency of negotiating sessions often are subject to rule making. Generally, more frequent and

shorter sessions are the most productive, particularly in the early stages of negotiations. Ideally, sessions should be no longer than three hours and should be scheduled once every two weeks. You'll need time between sessions to gather and analyze data, compute costs, revise positions, and prepare counterproposals. In the later stages of negotiations, longer sessions may be in order if there is momentum toward an agreement.

Also, there should be an understanding about when monetary items will be discussed. Remember, language many times is worth more than money. Postpone discussion of monetary items until non-economic differences are resolved. Only then will you know what you are buying for your money. It's easier during the eleventh hour to add a fraction of a percent to wages than to resolve how seniority will affect layoffs.

Other areas that rules may pertain to are:

- use of tape recorders (Don't! They inhibit an open, honest, and frank exchange.);
- minutes of sessions (Your personal notes regarding the progress of bargaining sessions will be more useful.);
- authority of bargaining teams (Negotiators must have authority to make tentative agreements that are subject to ratification by the board and the union.);
- tentative agreements (Initialing and dating tentative agreements when they are agreed to reduces the chances for errors and confusion when the final agreement is compiled.);
- news releases (Prior to reaching impasse, permit news releases only when the contents are mutually agreed upon. If an impasse is reached, both parties should be free to communicate with the news media as they deem appropriate.).

Step six: at the table

How the negotiating team behaves during bargaining sessions can help or hinder the outcome. Above all, the team shouldn't display internal disagreements in the presence of the union representatives. Identify one spokesperson. Input from other team members should be sought and given during a caucus, an appropriate strategy whenever the team needs to verify data, plan strategy, reunite, or cool off. Sometimes a caucus is used to give the union time to "think it over."

The demeanor of the spokesperson also is important. Professional, firm, and cool are the descriptors to strive for. A sense of humor and a "thick skin" also are invaluable attributes for the job.

Other sound practices at the table include:

- Only the spokesperson should ask and answer questions. Divergent answers can split the team.
- Avoid confrontation. Learn how to say "no" in a positive way; avoid belittling or insulting the union's leaders. Learn how to pass over potentially explosive issues without offending the opposing party.
- Establish credibility. Know the facts and accurate costs behind every proposal. Speak with authority and credibility.
- Know "when to fold and when to hold." Initially, try to find some simple items on which to agree to establish a positive atmosphere. But don't give something without getting something in return. Determine and maintain a bottom line. Make the union bargain for everything it receives.

Step seven: agree

To reach agreement, you have to avoid stalemates. You must be able to draft counterproposals that incorporate some of the union's language but still preserve the concept you are after. Also, use acceptable union language titles. Another tip: bargain in terms of the total package. If money is at a stalemate, consider offering a split salary increase or placing more of the available dollars in fringe benefits where they aren't taxed.

Other strategies for avoiding stalemate include:

- using multi-year proposals to get a one-year contract (A proposal for a multi-year contract may be less desirable to the union than your one-year package and could make the one-year proposal more attractive.);
- recognizing the union's political exposure (To reach settlement, you may have to agree to something that maintains the credibility of the union leaders.).

Step eight: communicate

Developing a system for keeping the board informed of progress in a timely manner is important, particularly in the final phase of negotiations. As new issues arise, review them with the board and seek input from members. Also, keep supervisory team members informed of progress. They will be your frontline contract administrators after settlement is reached.

Be careful about communicating with rank and file union members, however. Save this tactic for times when union leaders are unwilling to tell union members the truth. Also be wary of communicating with the public. The results can be unpredictable. If you do go public, be sure that you first assess the political climate in your community.

Step nine: sign contract

When the new agreement is signed, make sure that all supervisors receive a copy as well as a briefing by a negotiating team member on the language changes and the parties' intent. This information will aid supervisors in correctly interpreting and applying the new provisions, thereby avoiding grievances.

Supervisors also should be advised on reasonable work rules that will assist in administering the agreement. In addition, an internal procedure for handling grievances should be established if one doesn't already exist. Having a single person screen all grievances will facilitate uniform responses to similar problems. This is especially useful where different bargaining units have similar, but not identical contract language.

The contract signing also signals the start of planning for the next round of bargaining. Supervisory personnel should be instructed to keep track of contractual matters that cause them difficulty. These lists will be valuable resources for developing future proposals and strategies. ■

Establish a policy framework

If the keys to successful negotiations are preparation, planning, commitment, and communication, the framework for that process should be found in school board policy. Section H of the Educational Policies Service (EPS) codification system provides a repository for policy statements pertaining to the *process* of negotiating with staff units recognized by the school board.